

Committee on Ways and Means

H.R. 7, the “Charitable Giving Act of 2003”

Detailed Summary

Charitable Deduction for Non-Itemizers

The bill would provide an above-the-line deduction for cash contributions in excess of \$250 for individuals/\$500 joint filers. This bill would allow a maximum deduction of \$250 single/\$500 joint filers. The deduction would be available for 2004 and 2005.

Charitable Individual Retirement Accounts (IRA) Distributions

The provision would allow tax-free distributions from IRAs for charitable purposes for individuals age 70.5 and above. The provision would apply to direct gifts and split-interest gifts.

Corporate Charitable Contributions

The provision would raise the cap on corporate charitable contributions from 10 percent to 20 percent as follows: 11 percent in 2004, 12 percent in 2005, 13 percent in 2006, 14 percent in 2007, 15 percent in 2008 through 2011, and 20 percent in 2012 and thereafter.

Food Inventory Donations

The provision would extend the present law 170(e)(3) C-corporation enhanced deduction for food inventory to all businesses and require donated food to be “apparently wholesome food.”

Reform Certain Excise Taxes Related to Private Foundations

Excise Tax on Private Foundation Net Investment Income. This bill would modify the 2-percent excise tax to eliminate the 2-tier regime and impose a 1-percent excise tax.

Excise Tax on Failure to Distribute Income. The bill would modify the minimum distribution requirement to provide that “qualifying distributions,” for purposes of the 5-percent minimum distribution requirement, shall not include administrative expenses other than those directly attributable to direct charitable activities, grant selection activities, grant monitoring and administration activities and compliance with State, Federal or local law. In addition, qualifying distributions would not include: (1) compensation paid to a disqualified person in excess of an annual rate of \$100,000, (2) air travel other than a regularly scheduled commercial flight, and (3) air travel in excess of coach accommodations.

Excise Tax on Self-Dealing. This bill would increase the initial excise tax on self-dealing from 5 percent to 25 percent.

Charitable Remainder Trusts – Unrelated Business Income Tax Rules

In lieu of removing the income tax exemption of a charitable remainder trust for any year in which the trust has unrelated business taxable income (UBTI), the bill would impose a 100 percent excise tax on the UBTI of the trust.

Donations of Scientific Property and Computer Technology and Equipment

The bill provides that property assembled by the taxpayer, in addition to property constructed by the taxpayer, would be eligible for the enhanced deduction for scientific property and computer technology equipment. In addition, the bill would make permanent the enhanced deduction for qualified computer contributions.

S Corporation Charitable Contributions

The bill would provide that a shareholder's basis reduction in the stock of an S Corporation by reason of a charitable contribution made by the corporation would be equal to the shareholder's pro rata share of the adjusted basis of the contributed property. (Current law requires the shareholder to reduce his or her basis in the stock of S Corporation by the amount of the charitable contribution that flows through to the shareholder).

Charitable Organizations Permitted to Make Certain Collegiate Housing Grants

The provision would expand the ability of 501(c)(3) organizations to make certain collegiate housing and infrastructure grants to qualifying organizations having college students as a majority of their members. The grants must be used by the recipient organization for purposes that would be permissible for a dormitory of the college or university with which such organization is associated.

Certain Games of Chance Not Treated as Unrelated Business Taxable Income

The bill would provide that the proceeds of qualified games of chance would not be subject to unrelated business income tax so long as the net proceeds are set aside for charitable purposes, the promotion of social welfare or for purposes specifically authorized by State law.

Excise Taxes Exemption for Blood Collection Organizations

The bill would exempt qualified blood collection organizations from certain retail and manufacturers excise taxes to the extent such items are used for the exclusive use of the blood collector organization.

Nonrecognition of Gain on the Sale of Property Used in the Performance of and Exempt Function

The gain on the sale of property used in the performance of an exempt function by a 501(c)(7) tax-exempt organization would be taxed as unrelated business income unless the proceeds from the sale are reinvested within 3 years of the sale of such property. This bill would extend the replacement period from 3 years following the sale to 10 years following the sale.

501(c)(3) Bonds for Nursing Homes

The bill would provide that the Federal guarantee prohibition would not apply to qualified 501(c)(3) bonds supported by a letter of credit and issued for the benefit of nursing home facilities for the elderly. The provision would apply to bonds issued after December 31, 2003 and before the date which is 1 year after the date of enactment.

Tax-Exempt Status of Terrorist Organizations

The bill would suspend the tax-exempt status of an organization during any period in which the organization is designated as a terrorist organization or is listed in or designated by an Executive Order as supporting terrorism.

Clarification of the Definition of Church Tax Inquiry

The bill would clarify that church tax inquiry procedures do not apply to contacts made by the Internal Revenue Service for the purpose of educating churches with respect to tax laws governing exempt organizations.

Declaratory Judgment Procedures

The bill would extend declaratory judgment procedures similar to those currently available only to charities to other tax-exempt organizations.

Treatment of Grant Money Received under the U.S. Department of Interior (DOI) Conservation Programs

The bill would extend the type of qualified conservation cost-sharing payments that may be excluded from gross income to landowner initiatives programs to

Treat as tax-free certain funds received by landowners from the DOI to carry out habitat restoration or wildlife protection measures. The bill would treat DOI and the U.S. Department of Agriculture grant programs similarly for tax liability purposes.

Unrelated Business Income Tax Rules for Certain Payments to Controlling Exempt Organizations

Under current law, rents, interest, annuity or royalty payments made by a controlled entity to its tax-exempt parent are subject to unrelated business income tax. The provision would modify the tax treatment of such payments and impose, in general, an unrelated business income tax on the excess portion of such payments if the payments received by the tax-exempt parent exceeded fair market value. In the event of a valuation misstatement, an additional 20 percent tax would be imposed on the excess value.

Lobbying Expenditures Limitation

The provision would eliminate the separate limitation for grass-roots lobbying expenditures applicable to electing charities. Currently, electing charities are limited in the amount they can spend on lobbying activities to the lesser of \$1million and an amount determined as a percentage of organization's exempt purpose expenditures (maximum of 20 percent). Of this non-taxable lobbying amount, no more than 25 percent can be used for "grass-roots" lobbying.

Pilot Project for Forest Conservation Activities

The provision would create a pilot project that would allow eligible nonprofit organizations to use tax-exempt bonds to acquire certain forest land. A board of directors, consisting of business interests, environmentalists and elected officials would develop a sustainable management plan for the land. Income from certain timber harvesting activities on the land could be used to repay the bonds and would be exempt from income tax.

Compassion Capital Fund

The bill authorizes a new compassion capital fund permitting the Secretary of the U.S. Department of Health and Human Services to award \$150 million in grants in fiscal year 2004 and such sums as may be necessary in fiscal years 2005 through 2008 to support and replicate promising social service programs.

Individual Development Accounts

The bill reauthorizes the current appropriated Individual Development Account matched savings program through fiscal year 2008, and makes several technical changes to improve program administration.

Sense of Congress Regarding Corporate Contributions to Faith-Based Organizations

The provision would state it is the sense of Congress that (a) corporations are important partners with government efforts to overcome societal problems, and (b) no corporation should adopt policies that would prohibit such corporation from contributing to an organization that is successfully advancing a philanthropic cause merely because such an organization is faith-based.

Maternity Group Home Authorization

The bill would afford pregnant and parenting mothers access to transitional living opportunities, an alternative to the environments of violence and despair that many young pregnant and parenting mothers face. (This provision under the jurisdiction of the Committee on Education and the Workforce.)

Block Grants

H.R. 7 would allow States to transfer up to 10 percent of their annual Federal Temporary Assistance for Needy Families block grant funds to the Social Services Block Grant; this would restore the transfer limit set under the 1996 welfare reform law as a matter of permanent law.